

National Labor Relations Board



Weekly Summary of NLRB Cases

Division of Information

Washington, D.C. 20570

Tel. (202) 273-1991

July 16, 2004

W-2956

CASES SUMMARIZED
VISIT WWW.NLRB.GOV FOR FULL TEXT

[North Hills Office Services and National
Organization of Industrial Trade Unions](#)

Rutherford, NJ

1

[Saint Gobain Abrasives, Inc.](#)

Worcester, MA

1

OTHER CONTENTS

[List of Decisions of Administrative Law Judges](#)

2

[List of Unpublished Board Decisions and Orders in Representation Cases](#)

2

- Uncontested Reports of Regional Directors and Hearing Officers
- Requests for Review of Regional Directors' Decisions and Directions of Elections and Decisions and Orders

The Weekly Summary of NLRB Cases is prepared by the NLRB Division of Information and is available on a paid subscription basis. It is in no way intended to substitute for the professional services of legal counsel, or for the authoritative judgments of the Board. The case summaries constitute no part of the opinions of the Board. The Division of Information has prepared them for the convenience of subscribers.

If you desire the full text of decisions summarized in the Weekly Summary, you can access them on the NLRB's Web site (www.nlr.gov). Persons who do not have an Internet connection can request a limited number of copies of decisions by writing the Information Division, 1099 14th Street NW, Suite 9400, Washington, DC 20570 or fax your request to 202/273-1789. Administrative Law Judge decisions, which are not on the Web site, can be requested by contacting the Information Division.

All inquiries regarding subscriptions to this publication should be directed to the Superintendent of Documents, U.S. Government Printing Office, Washington, Dc 20402, 202/512-1800. Use stock number 731-002-0000-2 when ordering from GPO. Orders should not be sent to the NLRB.

North Hills Office Services and National Organization of Industrial Trade Unions (22-CA-25399, 22-CB-9585; 342 NLRB No. 25) Rutherford, NJ July 9, 2004. The Board adopted the administrative law judge's finding that Respondent North Hills Office Services (North Hills) violated Section 8(a)(5) and (1) of the Act by failing and refusing to recognize and bargain with Service Employees Local 32B-32J; Section 8(a)(2) and (1) by extending recognition to Respondent National Organization of Industrial Trades Unions (NOITU) as the exclusive bargaining representative of the unit employees, and by applying the terms of its collective-bargaining agreement with NOITU to the unit employees, at a time when NOITU did not represent an uncoerced majority of those employees; and by arranging for and attending a meeting with unit employees during which representatives of NOITU solicited those employees to sign union authorization cards. [\[HTML\]](#) [\[PDF\]](#)

The Board adopted, absent exceptions, the judge's finding that Respondent NOITU violated Section 8(b)(1)(A) by accepting recognition as the exclusive bargaining representative of the unit employees and enforcing the terms of its collective-bargaining agreement with Respondent North Hills with respect to the unit employees, at a time when it did not represent an uncoerced majority of those employees, by participating in a meeting with unit employees that was arranged by a representative of North Hills, and by soliciting unit employees to sign union authorization cards, in the presence of a representative of North Hills.

(Members Schaumber, Walsh, and Meisburg participated.)

Charges filed by Service Employees Local 32B-32J; complaint alleged violation of Section 8(a)(1), (2) and (5) and Section 8(b)(1)(A). Hearing at Newark, April 8 and 9 and May 5 and 6, 2003. Adm. Law Judge Margaret M. Kern issued her decision Feb. 2, 2004.

Saint Gobain Abrasives, Inc. (1-RD-2003; 342 NLRB No. 39) Worcester, MA July 8, 2004. Chairman Battista and Members Schaumber and Meisburg granted Petitioner Wayne Gregoire's request for review, reversed the Regional Director's administrative dismissal of the decertification petition, and remanded the case to the Regional Director for further appropriate action. Members Liebman and Walsh dissented. [\[HTML\]](#) [\[PDF\]](#)

The Regional Director dismissed, without a hearing, the decertification petition, finding that the Employer's allegedly unlawful change in health insurance benefits likely caused employee disaffection with the Union. The majority held that the Regional Director's finding of causal nexus deprived the employees of their Section 7 rights on the question of union representation. Citing *Master Slack*, 271 NLRB 78 (1984), they concluded that such a factual determination of causal nexus should not be made without an evidentiary hearing.

While noting that the Board has applied *Master Slack* in the context of a representation case to dismiss a decertification petition without a hearing, the majority said: "the alleged unfair labor practice is a single unilateral change on a single subject and, . . . there are significant factual issues as to the impact of that change. In such circumstances, it is not appropriate to speculate, without facts established in a hearing, that there was a casual relationship between the

conduct and the disaffection. To so speculate is to deny employees their fundamental Section 7 rights. Surely, a hearing and findings are prerequisites to such a denial.”

They further stated: “Our dissenting colleagues say that the change had the ‘inherent tendency’ to undercut the Union’s support. . . . the real test is whether there is a causal nexus between the change and the loss of support for the Union. The use of a conclusionary phrase can be no substitute for an evidentiary into this matter. To the extent that *Priority One Services*, [331 NLRB 1527 (2000)] is to the contrary, it is overruled.”

Members Liebman and Walsh, contrary to their colleagues, would deny review and affirm the Regional Director’s dismissal of the petition pursuant to the Board’s decision in *Priority One Services*. In agreement with the Regional Director, Members Liebman and Walsh held that the unilaterally implemented health insurance benefits affected the entire bargaining unit and that the change is of the type that would tend to cause employee disaffection with the Union. They noted that if the Board upholds the dismissal of the health insurance change allegation, the decertification petition in this case will be reinstated and that “expeditious action on the unfair labor practice case by the Board could make a hearing in this representation case unnecessary.”

(Full Board participated.)

LIST OF DECISIONS OF ADMINISTRATIVE LAW JUDGES

Goya Foods of Florida (UNITE!) Miami, FL July 2, 2004. 12-CA-21464 and 21659; JD(NY-30-04, Judge Raymond P. Green.

Air Line Pilots Association (ABX Air, Inc.) Cincinnati, OH July 2, 2004. 9-CC-1660; JD-64-04, Judge Joseph Gontram.

Starcraft Aerospace, Inc. (Machinists) Greenville, SC July 7, 2004. 11-CA-20209; JD(ATL)-36-04, Judge John H. West.

LIST OF UNPUBLISHED BOARD DECISIONS AND ORDERS IN REPRESENTATION CASES

*(In the following cases, the Board adopted Reports of
Regional Directors or Hearing Officers in the absence of exceptions)*

DECISION AND DIRECTION OF SECOND ELECTION

AKAL Security, Inc., Espanola, NM, 28-RC-6141, July 8, 2004

***(In the following cases, the Board denied requests for review
of Decisions and Directions of Elections (D&DE) and
Decisions and Orders (D&O) of Regional Directors)***

Brookhaven Memorial Hospital Medical Center, Patchogue, NY, 29-UC-522, July 7, 2004
Degussa Engineered Carbons, LP, Orange, TX, 16-RC-10576, July 7, 2004
*Guardian Armored Assets, LLC, Inc. and Guardian Armored Security, Southfield, MI,
7-RC-22665, July 7, 2004*
Keystone Automotive Industries, Inc., Minneapolis, MN, 18-RC-17261, July 7, 2004

***(In the following cases, the Board granted requests for review
of Decisions and Directions of Elections (D&DE) and
Decisions and Orders (D&O) of Regional Directors)***

Clarian Health Partners, Inc., Indianapolis, IN, 25-RC-10225, July 7, 2004
